

Amendment and Response

Serial No.: 09/696,635

Confirmation No.: 4398

Filed: 25 October 2000

For: FUIT, VEGETABLES AND SEED DISINFECTANTS

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Remarks

The Office Action mailed 16 May 2005 has been received and reviewed. Claims 31, 32, and 46-51 having been canceled, claims 33-37, 42, and 39-41 having been amended, and claims 52-54 having been added, the pending claims are claims 33-37, 39-45, and 52-54.

Reconsideration and withdrawal of the rejections are respectfully requested.

Double Patenting Rejection

Claims 31-37, 39-49 and 50-51 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 of co-pending U.S. Patent Application No. 10/659,571. Further, claims 31-37, 39-49 and 50-51 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-25 of co-pending U.S. Patent Application No. 10/936,989. Finally, claims 31-37, 39-49 and 50-51 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-23 of co-pending U.S. Patent Application No 10/937,059. Upon an indication of otherwise allowable subject matter and in the event this rejection is maintained, Applicants will provide an appropriate response.

The 35 U.S.C. §112, Second Paragraph, Rejection

The Examiner rejected claims 31-37, 39-49, and 50-51 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. For example, the Examiner alleged that the specification as originally filed fails to teach, for example, an enhancer comprising benzoic acid or salicyclic acid. Also, for example the Examiner alleged that "a fatty acid monoester" such as glycerol monolaurate, is a known single and stable chemical compound, not a composition, not a moiety within a compound. Although Applicants do not agree with the Examiner regarding any

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of these claim rejections, each of these claims has been amended or cancelled, thereby rendering these rejections moot, solely in the interest of expediting prosecution.

The 35 U.S.C. §103 Rejection

The Examiner rejected claims 31-37, 39-49, and 50-51 under 35 U.S.C. §103(a) as being unpatentable over Komp (U.S. Patent No. 5,098,694) in view of Andrews et al. (U.S. Patent No. 5,569,461). This rejection is respectfully traversed.

The Examiner rejected claims 31-33, 35-37, 39, and 41-51 under 35 U.S.C. §103(a) as being unpatentable over Beerse et al. (U.S. Patent No. 5,968,539). This rejection is respectfully traversed. The current claims are all kit claims. Applicants submit that there is no teaching or suggestion of the claimed kits in these documents. The Examiner's attention is directed to the accompanying Declaration of Matthew T. Scholz with further support for the patentability of the claimed invention.

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Summary

It is respectfully submitted that the pending claims 33-37, 39-45, and 52-54 are in condition for allowance and notification to that effect is respectfully requested. The Examiner is invited to contact Applicants' Representatives, at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted for
Kestutis TAUTVYDAS et al.

By
Mueting, Raasch & Gebhardt, P.A.
P.O. Box 581415
Minneapolis, MN 55458-1415
Phone: (612) 305-1220
Facsimile: (612) 305-1228

November 16, 2005
Date

By: Ann M. Mueting
Ann M. Mueting
Reg. No. 33,977
Direct Dial (612) 305-1217

CERTIFICATE UNDER 37 CFR §1.10:

"Express Mail" mailing label number: EV 201 893 588 US

Date of Deposit: 16 November 2005

I hereby certify that the Transmittal Letter and the paper(s) and/or fee(s), as described hereinabove, are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR §1.10 on the date indicated above and is addressed to: **Mail Stop Amendment**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

By: Richard Gagliardi-Graham
Name: Richard Gagliardi-Graham